

Court twists Amendment 2

Colorado's Supreme Court entered the murky waters of creating yet another "fundamental constitutional right" when it voted Monday to uphold an injunction barring Amendment 2 from taking effect in Colorado.

The state's high court, in a 6-1 ruling, let stand the January ruling by Denver District Court Judge Jeff Bayless that has barred the amendment from going into effect. Passed by voters in November, Amendment 2 would prohibit the state or local governments from enforcing gay-rights laws.

In upholding the injunction, the state Supreme Court agreed with Judge Bayless that Amendment 2 supposedly affects the fundamental constitutional rights of homosexual citizens. Legal opponents of Amendment 2 claim it violates the right of homosexuals to participate in the political process, as well as their rights to expression and freedom of association.

Granted, in our constitutional system, the majority does not always get its way, nor should it. Basic, fundamental rights such as the freedom to worship, to speak, to bear arms and to petition the government cannot be curtailed by the simple majority vote of a legislature or the electorate. No debate there.

Where Colorado courts have strayed is in recognizing homosexual conduct as granting status as a protected class. By this twisted logic, any effort, such as Amendment 2, to prohibit governments from granting special legal privileges to homosexuals as a protected class then becomes a violation of "basic rights."

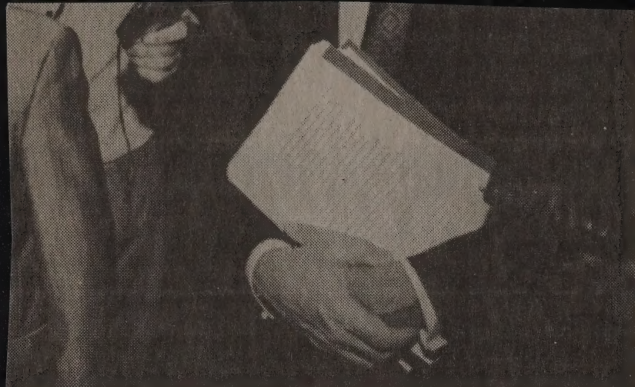
The fatal flaw in this argument is that it grants special legal status based on sexual behavior. But if homosexuality is

deserving of special status, why has sexual orientation never been included in federal civil rights laws? If engaging in homosexual conduct is a constitutionally protected right, why did the Supreme Court, in the 1986 case, *Bowers vs. Hardwick*, uphold state laws that make sodomy, including homosexual acts, illegal?

The answer is that homosexuality never has been and is not now a basis for granting special protected class status under the U.S. Constitution. It remains a controversial lifestyle which some people uphold as morally neutral and normal, and others oppose as immoral and destructive, both to individuals and to society. Amendment 2 was not an attempt to make homosexuality illegal or to deprive anyone of their true rights, but to declare that government shall remain neutral in the controversy over the social acceptance of homosexuality.

Indeed, Amendment 2 is truer to the spirit of "equal protection" than the opponents who would strike it down. In essence, the amendment asserts that homosexuals should enjoy equal protection of the law, but not special protection. Amendment 2 prohibits the government from carving out a special niche in the law for a group of people based solely on their sex lives.

The state Supreme Court's ruling on Monday points toward a protracted legal battle over Amendment 2. By upholding the injunction, the court has made it extremely difficult for the defendants to successfully defend Amendment 2 in the state courts. The ultimate legal decision may now rest with the U.S. Supreme Court, which has in the past refused to add homosexuals to the list of special protected classes.



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Tariq Aziz. Ekeus is to brief the U.N. Security
Council on developments later this week.

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Ekeus said he no longer
thought military action by the
Western allies against Iraq was
warranted. The Security Coun-
cil has the final say on that
matter. Ekeus is to brief the
council later this week.

The United Nations had
warned Thursday of "serious
consequences" — meaning a
possible air strike — if Iraq
continued blocking U.N. offi-
cials from monitoring the
missile-testing sites.

Elated Iraqis poured into the
streets when the news spread
through Western radio broad-
casts that their government
had avoided another military
confrontation with the West.

The Iraqi currency, the

democracy could be drowned in
blood" as multiparty talks re-
sumed Monday amid violence
and political squabbling.

Six blacks were shot to death
in an attack linked to the rivalry
between Nelson Mandela's Afri-
can National Congress and the
black conservative Inkatha Free-
dom Party.

And Inkatha and the white
Conservative Party made good
on threats last week to pull out
of the negotiations.

Still, more than 20 parties
met, determined to continue
work on a new constitution that
will guide the country in the
first few years after multiracial
elections, set for April.

The talks had been in recess
since July 2.

Monday's attack, after a
weekend in which 22 blacks
died, showed the difficulties fac-
ing the country as its diverse po-
litical factions try to settle their
differences.

Gunmen with AK-47 assault
rifles and pistols flagged down a
minibus before dawn in Germis-
ton, just outside Johannesburg,
said Petrus Zunghu, a survivor.

Zunghu said the gunmen ac-
cused seven of the 13 passengers
of being supporters of the In-
katha Freedom Party. The seven
were marched into a nearby
field, forced to lie on their stom-
achs and shot in their heads.

Inkatha spokesman Themba
Khoza said the morning ambush
was part of a plot to destabilize
the Zulu-dominated group in ad-
vance of the election.

Both Inkatha and the
pro-apartheid Conservative
Party are pressing for territory
where they can be free of con-
trol from what is expected to be-
come an ANC-led government.

Their opponents say Inkatha